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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,882	06/06/2006	Akira Dangami	062519	7402
38834	7590	08/19/2010	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				BLADES, JOHN A
1791		ART UNIT		PAPER NUMBER
			NOTIFICATION DATE	
			DELIVERY MODE	
			08/19/2010	
			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/581,882	DANGAMI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JOHN BLADES	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 July 2010.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,5 and 8-13 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,5 and 8-13 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>07/14/10</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

*Claims 1, 5 & 8-13 are pending as amended on 07/14/10.*

### ***Response to Amendment***

1. This non-final action is a response to the amendment filed on July 14, 2010. Claims 2-4 & 6-7 have been cancelled and thus all objections/rejections pertaining to these claims are withdrawn. Claim 1 has been amended as a result of the previous non-final action. The rejections of claims 1 & 5 under 35 U.S.C. 103(a) have been redone in light of this amendment. Claims 8-13 have been added.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claims 1, 5 & 8-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Szewczyk *et al.*, US 5,250,138 in view of Fasbender, DE 198 21 546. The teachings of Szewczyk have been detailed previously, including the presence of a mounted label sticking unit that can move toward/away from an adherend, and a spring-biased space maintaining device mounted on the label sticking unit, which changes position when it contacts a face of the adherend, triggering a sensor when a desired amount of displacement by a contact member has occurred. This sends a signal to stop

the movement of the apparatus, in order to carry out the controlled application of a label retained thereon (throughout, e.g. [Col. 2, 12-44]). The mounting plate is of course capable of being held stationary, and though this reference does not expressly disclose *two separate mounting plates for a label supply & the sticking unit*, these two elements are shown as being mounted on decidedly distinct areas of shaped mounting plate 72 (see figures), and the regions could potentially be considered “first & second mounting plates.” It is further noted that Applicants' own mounting plates 32 & 15 seem to be mounted fixedly on some complete apparatus (not shown) and would likely be physically connected just as the regions of Szewczyk's mounting plate 72 are. Regardless, it has been held that the mere separation of the plate taught by the prior art into two distinct parts is well within the realm of ordinary skill, and would have been obvious; see MPEP 2144.04(V)C.

Szewczyk does not expressly disclose a contact member *which is configured as a roller-tipped structure and mounted at a central, side end of the label sticking unit*; however, such structures are known, as taught by Fasbender (throughout, e.g. see especially [FIGS. 2a & 5-6]). As the triggers of Szewczyk & Fasbender are both mechanical devices which are elastically biased into a rest position and will activate the delivery of a label when displaced a given amount against the surface of an adherend, they perform the same basic function, and either known structure for the contact member could have easily been swapped for the other by one of ordinary skill in the art. Examiner notes that while the obtained machine translation of the Fasbender reference from German to English appears to be silent as to the nature of the position

displacement sensor, it is clear that such a device is implicit in this reference. It would have been obvious to combine the teachings of Fasbender with the teachings of Szewczyk, to substitute in a known, alternate structure which operates in an equivalent manner in order to produce predictable results.

4. With regard to **claims 5 & 9**, Szewczyk does not expressly disclose *suction retention means & air blast application means*, though these are fully conventional limitations for a device which carries peeled labels on a pad and subsequently applies them to adherends. Suction retention of a label falls under Szewczyk's not-shown means to position labels "below the applicator pad 120 in a manner well known to those skilled in the art for movement with the applicator pad" [Col. 6, 59-62]. Air blast application is admitted by Applicant as a known alternative to the "predetermined stroke" controlled-distance label delivery of Szewczyk, as shown in paragraph [0002] of the original specification. Further, such a structure is taught in Fasbender [throughout, e.g. Pg. 6, 2<sup>nd</sup> para.], as is suction retention. It would have been obvious for one of ordinary skill to swap the conventional suction retention & air blast delivery means taught by Fasbender with the stroke-type application means described in Szewczyk, to allow for contactless delivery of labels in sensitive applications [Pg. 10, 1st para.].

5. With regard to **claims 10-13**, the Fasbender reference teaches a roller mounted on a pivoting arm as stated above, and while the machine translation obtained does not appear to discuss the specifics of the displacement sensor and biasing spring disposed at one end of the arm, it is clear to the Examiner that such elements are implicit in this reference as they are necessary for the demonstrated mode of operation. Also,

Examiner notes that such basic trigger elements are also expressly taught by Szewczyk, as mentioned previously. Also, while the shown, exposed portion of the arm of Fasbender appears to be straight *and not in the shape of an uppercase "L,"* this difference in shape appears to be a simple matter of choice which a person of ordinary skill would have found obvious, absent evidence that adding a bend to the arm of the prior art would be patentably significant.

### ***Response to Arguments***

6. Applicants' arguments, see response, "Applicants' Response to Claim Rejections under 35 U.S.C. 103," filed July 14, 2010 have been fully considered but are not persuasive. Applicants' arguments toward the new claim amendments have been taken into consideration and addressed above. Examiner maintains that the term "single sensor" does not afford Applicants' claims any sort of unique scope that is missing from the cited prior art. Applicants' claimed sensor, used for "*detecting a position change of said contact member*" (claims 1 & 8), is present in Szewczyk. Arguments concerning other sensors in the prior art which perform other functions are not relevant to the patentability of a sensor for detecting the position change of a contact member. Indeed, virtually any physical trigger has a single sensor that detects movement of said trigger and relays this to the rest of an apparatus. Examiner also maintains that Paragraph [0002] does in fact constitute prior art as Applicants admit that such a feature is conventional in this field, and even if this had not been admitted in the specification, retention/application of a label by air suction/pressurization is absolutely well known.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN BLADES whose telephone number is (571)270-7661. The examiner can normally be reached on M-Th (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katarzyna Wyrozebski can be reached on (571)272-1127. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J.B./  
Patent Examiner

/KHANH NGUYEN/  
Primary Examiner, Art Unit 1791